

Hammer Time: Sooner Than You Think?

The Advisor recently reported on the MACT Hammer requirements under s. 112(j) of the Clean Air Act. The US Environmental Protection Agency (EPA) is required under s. 112, Clean Air Act, to write rules called MACT (Maximum Achievable Control Technology) standards.

MACT standards are established to reduce emissions of hazardous air pollutants (HAPS) from specific industrial categories. The MACT hammer applies to businesses in one of 33 industrial categories for which EPA did not issue a MACT standard by May 15, 2002.

Businesses affected by the MACT Hammer were to submit a Part 1 application by May 15, 2002 and

then a Part 2 application by May 15, 2004. EPA expected to have all the remaining 33 MACT standards issued by the due date for Part 2, so that businesses would not have to do all the extra work of proposing a site specific MACT standard.

**MACT Hammer Part 2
Now Due May 15, 2003!**

**One year earlier than
previously required.**

Recent resolution of a legal suit regarding the MACT Hammer has established a new due date for Part 2 of the application. Now, businesses must submit Part 2 of the MACT Hammer application by

May 15, 2003.

Businesses and other groups are **working to appeal** this decision to move up the due date, but it may be a good idea to be prepared in case the appeals are denied. ❖

New From the Small Business Clean Air Assistance Program...

✓ **Secondary Aluminum MACT fact sheet** - which includes separate appendices for the affected units at area sources (Thermal Chip Dryers, Scrap Dryers, Group 1 Furnaces and Sweat Furnaces).

✓ **EPA's Practical Guide to Environmental Management for Small Business** - copies are now available.

To order:
call (608) 264-6153;
fax (608) 267-0436;
or email CleanAir@commerce.state.wi.us

Area Sources Affected by Secondary Aluminum MACT

A MACT rule for secondary aluminum production facilities was issued on March 23, 2000. Secondary aluminum production facilities include aluminum scrap shredders, thermal chip dryers, scrap dryers/ delacquering kilns/ decoating kilns, melting and/or holding furnaces (group 1 and group 2), sweat furnaces, dross-only furnaces, and rotary dross coolers.

Major sources of hazardous air pollutants will have to comply with every section of the rule that is applicable to their specific emissions units. A major source is a facility with emissions greater than 10 tons per year of any one hazardous air pollutant or greater than 25 tons per year of all hazardous air pollutants. The hazardous air pollutants regulated here
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are the 188 listed by EPA in section 112(b) of the Clean Air Act.

The sections of the rule related to dioxin and furan (D/F) emissions will affect both major AND area sources. Area sources are those businesses with emissions of hazardous air pollutants below the major source level.

Area Sources Affected

Of all the affected processes at a secondary aluminum production facility, area sources will have to meet the D/F limits on the following units:

- ① Thermal chip dryers
- ② Scrap dryers/ delacquering kilns/ decoating kilns
- ③ Group 1 furnaces (or a secondary aluminum production unit {SAPU} with one or more Group 1 furnaces)
- ④ Sweat furnaces

New units must be in compliance upon start up while existing units, those installed prior to February 11, 1999, must comply by **March 23, 2003**. This

date is very important because EPA is adjusting their rule to require that initial performance testing be completed prior to that date rather than giving the sources 180 days from the compliance date as they have in other rules. **If you need to perform an initial test, you don't have much time!** Only a sweat furnace with an afterburner used to control emissions and that meets design criteria of 0.8 second residence time and 1600°F operating temperature DOES NOT have to conduct a performance test.

Thermal Chip Dryers

A thermal chip dryer is a device that uses

heat to evaporate water, oil or oil/water mixtures from unpainted/uncoated aluminum chips.

Scrap Dryer/Delacquering Kiln/Decoating Kiln

A scrap dryer/delacquering kiln/decoating kiln refers to a unit that is primarily used to remove various organic contaminants such as oil, paint, lacquer, ink, plastic, and/or rubber from aluminum scrap - including used beverage containers - prior to melting.



Group 1 Furnaces

These are furnaces of any design that melt, hold or process aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing, or process clean charge *with* reactive fluxing.

Sweat Furnaces

A sweat furnace is a unit that is specifically designed to reclaim aluminum

from scrap that also contains large quantities of iron. The aluminum has a lower boiling point than iron and will melt off in the furnace at the right temperature while the iron remains solid.

Additional Information

To obtain a copy of the full Secondary Aluminum MACT rule, contact the SBCAAP or go to EPA's web page specific to the rule at: www.epa.gov/ttn/atw/alum2nd/alum2pg.html. For a summary of the information, refer to a series of fact sheets developed by SBCAAP on the rule as it affects area sources. ♦

Go to EPA's web page specific to the rule at:
www.epa.gov/ttn/atw/alum2nd/alum2pg.html

Factors Affecting Indoor Air Quality

There are a number of sources that affect indoor air quality (IAQ), from contaminated outdoor air to human activities. It can be very difficult, if not impossible, to relate specific health effects to exposures to specific pollutant concentrations. It is important to understand that the indoor environment in any building is a result of the interaction between the site, climate, building system, construction techniques, contaminant sources, and building occupants.

Three major reasons for poor indoor air quality in an office building:

1. The presence of indoor air pollution sources.
2. Poorly designed, maintained or operated ventilation systems.
3. Uses of the building that were unanticipated or poorly planned for when the building was designed or renovated.



The Environmental Protection Agency (EPA) has the authority for disseminating information to the public and performing certain research on indoor air concerns. There are a number of informational pieces available through the EPA to help facility managers and office building owners determine if they have indoor air quality problems.

"The Building Air Quality Guide," published by the EPA, provides guidance about managing a commercial building's air quality. A more recent product developed by the EPA is I-BEAM. I-BEAM is a computer software program for use by building professionals and others interested in indoor air quality in commercial buildings. I-BEAM is designed to be comprehensive state-of-the-art guidance for managing IAQ in commercial buildings. The software contains text, animation/visual, and interactive/calculation components that can be used to perform a number of diverse tasks. Both of these documents can be found at the EPA web site:

<http://www.epa.gov/iaq/largebldgs/index.html>

Sources of Indoor Air Contaminants:

Equipment - HVAC systems:

- dust or dirt in ductwork
- improper use of biocides, sealants, and/or cleaning components
- improper venting of combustion products

Soil Gas:

- radon
- leakage from underground fuel tanks
- contaminants from previous uses of the site (e.g., landfills)
- pesticides

Housekeeping activities:

- cleaning materials and procedures
- emissions from stored supplies or trash
- use of deodorizers and fragrances
- airborne dust or dirt (e.g., circulated by sweeping and vacuuming)

Maintenance activities:

- microorganisms in mist from improperly maintained cooling towers
- airborne dust or dirt
- volatile organic compounds from use of paint, caulk, adhesives and other products
- emissions from stored supplies

Others: Asbestos

Information taken from "The Building Air Quality," developed by the EPA and the National Institute for Occupational Safety and Health.

For more information on indoor air quality:

Private Sector Buildings:

- OSHA - <http://www.osha.gov>
- The Wisconsin Safety Consultation Program at (800) 947-0553.

Public Sector Buildings:

- Schools - Randy Thiel (608) 266-9677
- State/County/City Correctional Facilities - Linda Mulhern (608) 240-5107
- Other Public Buildings - Dave Vriezen (608) 261-2503, or visit:

<http://www.epa.gov/region4/topics/air/indoorair.html>

On-line Access to Public Agency Information

Wisconsin DNR South Central Region Web Access

The South Central Region offices of Wisconsin's Department of Natural Resources (DNR), in Janesville, Fitchburg, Horicon and Dodgeville, now have computer terminals available to the public. These computer terminals will allow you access to any Internet web page owned or maintained by the DNR.

This new computer access will not allow you to surf the web and there will not be assistance available if you do not have a minimal knowledge of how to navigate web pages on your own.

DNR has many large documents so this service may be of use to you if you have slow response at your personal computer. Printing of any DNR documents will cost \$0.10 per page. Use of their on-line services like campsite reservations, hunting or fishing license purchases, or reading online databases may also be quicker at these terminals. ❖

EPA's Toxic Release Inventory On-line Dialogue

The EPA will hold an on-line public dialogue for 60 days - October 16 to December 17, 2002 - on the Toxics Release Inventory (TRI) Program. EPA is seeking suggestions and ideas on their methods for reporting, collecting, processing and releasing the TRI data. Go to their web site for instructions on how to join the dialogue:

<http://www.epa.gov/tri/programs/stakeholders/outreach.htm>

If you have trouble accessing the on-line dialogue you can contact Annette Marion at EPA: telephone 202/566-0731 or email marion.annette@epa.gov.

The TRI is data collected under the Emergency Planning and Community Right-to-know Act (EPCRA) section 313. Those who manufacture, process or otherwise use any of the EPCRA section 313 chemicals are required to report annually to EPA the environmental releases and other waste management quantities. ❖

Federal Environmental Regulatory Overview Course for Certified Hazardous Material Manager

The Federation of Environmental Technologists (FET) and Wisconsin Certified Hazardous Materials Managers (CHMM) are again sponsoring a regulatory overview course.

Environmental managers, health and safety managers, environmental consultants, regulatory inspectors, and environmental attorneys will all benefit from attending the federal environmental regulatory overview course. The course is a comprehensive review that will help environmental management staff to prepare for the CHMM examination and gain other certifications as well.

Course sessions are scheduled Thursday evenings from 6:00-9:00 p.m. starting November 7 and running through February 13, with no classes being held between December 12 and January 9 for the holidays. Sessions will be held at Brookfield POTW, 21225 Enterprise Avenue, Brookfield.

The registration deadline is October 30, 2002. Course fees are \$600 per person for the full course or \$75 per person for individual sessions. Contact FET at fetinc@charter.net or 262-644-0070 to register. ❖

Executive Order 13272 on Consideration of Small Entities

On August 13, 2002, President Bush signed Executive Order 13272 entitled "Proper Consideration of Small Entities in Agency Rulemaking." The order requires federal agencies to implement policies protecting small business when writing new rules and regulations.

The executive order outlines the following:

- ✓ Agencies will establish policies on how to measure their impact on small entities and will evaluate those procedures through the Small Business Administration's Office of Advocacy.
- ✓ The Office of Advocacy will train agencies on how to properly account for small business impact when agencies draft regulations.
- ✓ Agencies will submit proposed rules to the Office of Advocacy prior to publication and are required to consider the Office of Advocacy's comments when the rule is finalized.
- ✓ The Office of Advocacy will report annually on whether agencies are complying with this executive order.

Within 90 days of the executive order, the Small Business Administration's Office of Advocacy must notify agencies of the Regulatory and Flexibility Act's basic requirements. Within 180 days of the order, federal agencies must issue written policies and procedures for ensuring consideration of the Act in rulemaking that impacts small businesses.

To read the executive order, go to:
<http://www.whitehouse.gov/news/releases/2002/08/20020814-2.html> ❖

Wisconsin's Small Business Impact Requirements

Wisconsin has its own Regulatory Flexibility Act (the Act) - 1983 Wisconsin Act 90 - on the Consideration of Small Businesses in State Agency Rulemaking. The Act defined small business as independently owned and operated, not dominant in its field, and either employing no more than 25 employees or having gross annual sales of less than \$2,500,000.

The purpose of the Act was to provide each state agency methods by which to adapt administrative rules to the special needs and problems of small businesses. This is implemented through section 227.114, Wisconsin Statute. Agencies must also give small business the opportunity to participate in the rulemaking process by giving them advance notice a rule will affect them, making direct contact with individual companies that may be affected, conducting public hearings specifically on impact to small business, and using special hearing procedures to help reduce the complexity and cost to small businesses participating in the rule-making process.

Methods provided to reduce small business impact are:

- ✓ Can the rule be made less stringent for small businesses?
- ✓ Can small businesses get more time to comply?
- ✓ Can the rule be consolidated or simplified?
- ✓ Can performance standards be used instead of operational standards?
- ✓ Can small businesses be exempt from the rule?

Businesses believe that too often the Regulatory Flexibility Act does not work the way it was intended. A task force made up of small business owners and representatives was appointed by the Governor on January 22, 2002 to study this rule. The recommendations from the Regulatory Reform Task Force are summarized in the *Council's Corner* that follows. ❖

Council's Corner...

Recommendations from the Small Business Regulatory Reform Task Force

The Small Business Environmental Council (Council) provides information to small businesses on regulatory issues that may affect them through Council's Corner articles. Council member Pete Van Horn, owner of Van Horn Construction, was appointed to the Governor's Task Force on Regulatory Reform. Mr. Van Horn wants to ensure that the outcome from this task force does not escape the notice of the business community. Here is a summary of the Regulatory Reform Task Force's recommendations:

Introduction

Over 96 percent of the businesses in Wisconsin employ 100 or fewer workers. These small businesses bear a disproportionate share of regulatory costs and burdens. A recent national study¹ indicates a business with under 20 employees incurs costs of \$7,000 per employee to comply with federal regulations. Those same regulations cost a business employing 20 to 499 individuals \$4,320.

In addition to regulatory costs, the number and the complexity of regulations overwhelms Wisconsin's small businesses. A 1997 survey² showed that the majority of small business owners believe it is impossible to know and comply with all regulations that affect their businesses. The survey also indicated that 20 percent of small business owners

believe that the cost of state regulations has caused them to eliminate jobs. Almost half of the respondents believe regulations have forced them to postpone the growth or expansion of their business.

Recognizing the impact of small businesses on Wisconsin's economy, Governor Scott McCallum created a task force to look into the regulatory hurdles and challenges facing smaller employers.

Task Force in Action

The Governor appointed 12 task force members including small business owners and trade associations representing the small business community. The group examined the existing regulatory process for opportunities to reduce the negative impact of state rules and regulations on small businesses and to increase the level of regulatory compliance. The task force also discussed changes needed to ensure that Wisconsin's regulatory environment is efficient and cost-effective.

Beginning in March 2002, the task force met nine times over a seven-month period at various locations around the state. In addition, it held three listening sessions and a state agency briefing in August, 2002, designed to get input from the small business community. Businesses, agencies and interested individuals also had the opportunity to comment on the work of the task force and provide suggestions for the final report through two different web sites.

At the initial meeting, task force members identified 99 regulatory obstacles facing small

¹*The Impact of Regulatory Costs on Small Firms*, W. Mark Crain, George Mason University's Center for the Study of Public Choice and Thomas D. Hopkins, Rochester Institute of Technology's College of Business, October 2001.

²*Wisconsin Member Survey Ballot*, National Federation of Independent Business, 1997

Council's Corner on Regulatory Reform (continued...)

business owners. Those concerns served as a basis for the task force's work and ranged from general issues to agency and industry specific problems. Categories of concern included communication problems; the lack of a level regulatory playing field among businesses; enforcement issues; duplication between state and federal regulations; and the ineffectiveness of a current state law requiring agencies to consider the impact of their rules on small businesses.

Recommendations

Based on information presented to the group and in-depth discussions to find solutions to the identified issues and concerns, the task force made the following recommendations:

- ✓ Create a centralized, searchable web site that will post new rules under development and other regulatory actions underway in all state agencies.
- ✓ Write clear-cut rules that will not be open to interpretation. Use simple plain language and reduce cross-referencing to other statutes.
- ✓ Restructure current positions to appoint a Small Business Regulatory Coordinator within each agency to act as a contact person on small business regulatory issues and rulemaking activities.
- ✓ Create a Small Business Regulatory Review Board to enforce components of the Regulatory Flexibility Act.
- ✓ Design compliance schedules that provide additional time for small businesses to understand and comply with new regulations.
- ✓ Waive civil penalties for violations whenever a business voluntarily discloses a compliance issue and takes corrective action in a reasonable amount of time.

- ✓ Require state agencies to either justify why their regulations, permits and/or licenses are still needed, or sunset those rules or requirements.
- ✓ Update the Regulatory Flexibility Act, Equal Access to Justice Act, and Scope Statement within the administrative rule process to clarify and promote the original intent of the laws.
- ✓ Adopt a state version of the Federal Data Quality Act which requires agencies to ensure the quality of the data used when issuing new regulations.
- ✓ Allow for the judicial review of any penalties that result from actions or inactions taken by small business owners due to inaccurate or inconsistent information or advice received from state agency personnel.
- ✓ Require an agency to include enforcement provisions in the regulations. If the agency does not indicate how the rule will be enforced, the rule will not receive approval from the Small Business Regulatory Review Board.

Acting on Council Member's Thoughts

These recommendations will increase compliance and improve the bottom line for small businesses while improving Wisconsin's economy as a whole. If you agree with these recommendations, contact your legislators to ensure they are implemented.

Sincerely,



Peter Van Horn, P.E.
Owner, Van Horn Construction, Pewaukee, WI
Member of both the Small Business Environmental
Council and the Regulatory Reform Task Force

Painting and Coating Process Training Program

The Iowa Waste Reduction Center (IWRC) located in Cedar Falls, Iowa is offering a **free** painting and coating training.

About the Program

The IWRC's Process Training Program focuses on improving efficiency, pollution prevention and environmental compliance at businesses with spray finishing operations. A multi-faceted approach based on education, demonstration and research is used to address the needs of businesses that perform painting and coating.

Representatives from small businesses are invited to the IWRC's Process Training Facility for hands-on and classroom training on a variety of painting and coating processes. Because of the hands-on training component, class sizes are kept small (between six to eight people in a class) and informal. An emphasis is placed on spray operator training and application efficiency since these factors play a significant role in pollution prevention.



The Process Training will help:

- ✓ Realize the economic and environmental benefits of spray operator training.
- ✓ Reduce waste, emissions, production costs, material consumption and regulatory burden by improving application technology.
- ✓ Review techniques, technology and practices used to improve finish quality, reduce re-work, and provide a cleaner, safer and healthier work environment for employees.

Classes fill up fast! The next open training program is scheduled for **February 4-6, 2003**. Please contact Brian Gedlinske at the IWRC for more information on the Process Training Program at 1-800-422-3109 or visit:

<http://www.iwrc.org/programs/PACE.html>

WISCONSIN DEPARTMENT OF COMMERCE

The Small Business Clean Air Advisor is published by the Wisconsin Department of Commerce, Philip Edw. Albert, Secretary. To obtain free copies or to be placed on the mailing list, contact:

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